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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,465	03/25/2004	Ryan Price	RP-001-US	9323

31955 7590 12/20/2004  
CAPSTONE LAW GROUP LLP  
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EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/810,465

Applicant(s)

PRICE, RYAN

Examiner

Bret C Hayes

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 1,7-9 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/25/04 & 6/28/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 1, 7 – 9 and 13 are objected to because of the following informalities: claim 1, line 11, it has been held that the functional “whereby” statement does not define any structure and accordingly cannot serve to distinguish [*In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957)], and “forced” should be --force--; claims 7 and 8, line 2 of each, insert --a-- before “collar” and “harness”, respectively; claim 9, line 4, “retraining” should be --restraining--, and line 7, the functional “whereby” statement—see above; and claim 13, line 11, the functional “whereby” statement—see above, and “forced” should be --force--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9 – 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 9 recites the limitations “the means for coupling” in line 7, and “the collar” in line 8. There is insufficient antecedent basis for these limitations in the claim.

5. Claim 13, lines 4 and 5, “a retraction mechanism located and a cable connected to the retraction mechanism” is unclear.

6. Any unspecified claim is rejected as being dependent upon a rejected base claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,328,767 to Peterson.

9. Re – claim 9, Peterson discloses the claimed invention including an integrated pet leash, comprising: means for restraining a pet 10; means for holding the integrated pet leash 20; means for connecting 16 the restraining means 10 to the holding means 20; means for retracting 15 the connecting means 16 into an unextended position and for housing the connecting means 16 in the unextended position.

10. Re – claim 10, Peterson further discloses: wherein the holding means 20 includes a first handle portion 41 and a second handle portion 42 detachably coupled together—via screw 46.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1 – 8 and 11 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson as applied above.

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13. Re – claims 1 and 13, Peterson discloses the claimed invention, as applied to claims 9 and 10 above, except for a second retraction member, a second flexible elongated member, and the second elongated member being coupled between the second end of the handle and the second retraction member. 1) It would have been obvious to one having ordinary skill in the art at the time the invention was made to supply a secondary of the essential working parts of the device, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St, Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. 2) It would have been further obvious to one having ordinary skill in the art at the time the invention was made to arrange these parts in any manner desired, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

14. Re – claims 2 and 14, see above rejection of claim 10.

15. Re – claims 3, 4, 11, 12, 15 and 16, Peterson discloses the invention substantially as claimed except for the handle portions being coupled together by a latch mechanism or by a hook and loop fastener. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute a latch mechanism or a hook and loop fastener for the screw 46 as disclosed by Peterson, since the equivalence of a latch mechanism or a hook and loop fastener and a screw for their use in the fastening art and the selection of any known equivalents to a screw would be within the level of ordinary skill in the art.

16. Re – claim 5, Peterson discloses the claimed invention except for the elongated members being constructed of steel wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the elongated members of steel wire, since it has been held to be within the general skill of a worker in the art to select a known material on

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the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

17. Re – claim 6, Peterson discloses a retractable reel.
18. Re – claim 7, Peterson discloses the restraint being configured as a collar.
19. Re – claim 8, Peterson discloses the claimed invention except for the restraint being configured as a harness. It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the restraint as a harness, since the equivalence of a collar and a harness for their use in the restraining art and the selection of any known equivalents to a collar would be within the level of ordinary skill in the art.

***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu, can be reached at (703) 305 – 7421. The fax number is (703) 872 – 9306.

bh

12/15/04



TERI PHAM LUU  
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